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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,703	03/20/2000	Suresh Kumar	249768029US	6170

25096 7590 10/10/2003

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EXAMINER

POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/531,703

Applicant(s)

KUMAR, SURESH

Examiner

Frantzy Poinvil

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rackson et al. (US Patent No. 6,415,270).

As per claims 1-7, 9-21, and 33-47, Rackson et al disclose a multiple auction system in which bids from a multiple of auctions are replicated into another auction system. Applicant is directed to the abstract of Rackson et al. Rackson et al further teach the steps of receiving an indication of a plurality of auctions and participating in some of the indicated auctions. Note column 8, lines 9, lines 3-35. A bidding technique is not explicitly stated in Rackson et al. However, as per the limitation of a bidding technique to apply to the indicated auctions, the Examiner asserts that before a bidder participates in an auction, the bidder usually has some type of knowledge on how the auction is being conducted. In many of these auctions, the rules for the particular auction are usually made available to all bidders. Thus, in view of common knowledge of the different types of auctions, it would have been readily apparent ordinary skill in the art to anticipate or to devise some type of bidding technique while participating in a given

auction type. Furthermore, Rackson et al teaches a bidder provides rules regarding bidding preferences. Applicant is directed to column 7, lines 19-37 of Rackson et al.

Placing a bid at the auction with the lowest current bid whenever being outbid would have been obvious to one of ordinary skill in the art in order to secure a position wherein the possibility of obtaining the bided item at low price exists.

Rackson et al further teach placing bids at a plurality of auctions so that multiple bids are pending simultaneously. Bidding at an auction only after winning another auction would have been obvious to one of ordinary skill in the art because a bidder would have enough funds to use to apply at another auction. Bidding at an auction after losing at another auction is routinely done in the art. Permitting such in the system of Rackson et al would have been obvious to one of ordinary skill in the art in order for a bidder to maintain a leverage on the bidding process.

As per claim 8, the bidding technique including a combination of placing a bid at the auction with the lowest current bid whenever being outbid, bidding at a first auction until reaching a maximum bid and then bidding on a second auction, and bidding at a second auction only after winning a first auction is not explicitly taught by Rackson et al. The Examiner notes that during an auction, a bidder may have the opportunity to place more than one bid at one or more different items. If there exist a plurality of auctions, the bidder will also be opted to place a bid at one or more of the plurality of auctions for one or more item. Provided such in the system of Rackson et al would have been obvious to one of ordinary skill in the art in order to provide leverage to all bidders participating in the multiple auction system of Rackson et al.

As per claim 22, the teachings of Rackson et al are discussed above. Rackson et al do not explicitly state a bidding plan storage device. However, Rackson et al disclose a user

specifying bidding rules on how to bid. The bidding rules are similar to a bidding plan.

Providing such in a storage device would have been obvious to one of ordinary skill in the art to implement in an electronic bidding system such as that of Rackson et al. in order to provide an automatic retrieval of the rules to apply for given scenario in a particular auction system. Thus, bids would have been placed in accordance with the bidding plan.

As per claims 23-32, see the above noted rejection.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, claims 1-38 do not recite

any structure or functionality to suggest that a computer performs the recited claims.
Thus, claims 1-21 are rejected as being directed to non-statutory subject matter


Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday 7:00AM-5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326 for Before Final actions and (703) 872-9327 for After Final actions.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

FP
9/25/03


FRANTZY POINVIL
PRIMARY EXAMINER
Ad 3628